

AMENDED IN ASSEMBLY APRIL 5, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 2090

Introduced by Assembly Member Coto

February 18, 2010

An act to ~~add and repeal Section 41055~~ amend Section 42605 of the Education Code, relating to education finance.

LEGISLATIVE COUNSEL'S DIGEST

AB 2090, as amended, Coto. Education finance: ~~study relating to weighted pupil funding formulas~~ supplemental instruction.

Existing law establishes various categorical education programs, including supplemental instruction, and appropriates the funding for those programs in the annual Budget Act. Existing law requires the Superintendent of Public Instruction, for the 2008–09 to 2012–13 fiscal years, inclusive, to apportion from the amount provided in the annual Budget Act for specified categorical education programs an amount based on the same relative proportion that the local educational agency received in the 2008–09 fiscal year for those programs, with certain exceptions, including supplemental instruction programs. Those exceptions receive funding based on the 2007–08 fiscal year. Existing law authorizes school districts, for the 2008–09 to 2012–13 fiscal years, to use the categorical education program funds, with specified exceptions, for any educational purpose, to the extent permitted by federal law.

This bill would require that a school district receive supplemental instruction funding based on the amount the district received in the 2008–09 fiscal year if the district can substantiate to the satisfaction of the State Department of Education that the 2007–08 school year, for

purposes of hours of supplemental instruction provided at a school under its jurisdiction, was a startup year.

~~Existing law requires a county superintendent of schools to calculate a revenue limit for each school district in the county pursuant to specified formulas, including the calculation of the average daily attendance of the district. Categorical programs exist to fund specific educational programs. Economic impact aid is provided to school districts based, in part, on the concentration of economically disadvantaged pupils and English language learners.~~

~~This bill would express legislative intent to simplify and make transparent the process through which funding is provided for each public school pupil, to equalize the funding for pupils within significant parameters, and to focus per-pupil funding on enabling all California pupils to reach high state academic standards.~~

~~The bill would require the Governor, the Superintendent of Public Instruction, and the Legislature, no later than February 1, 2011, to each appoint 3 members of the 9-member Commission on Pre K-12 Funding, which would be established by the bill and charged with completing a study related to weighted pupil funding formulas. The bill would specify topics to be included in the study. The bill would require the study to be submitted to the Superintendent for distribution to the Legislature no later than December 31, 2011. The bill would limit the amount that would be available, from existing funds of the State Department of Education, to the commission to no more than \$60,000.~~

~~This bill would make these provisions inoperative on July 1, 2012, and would repeal these provisions as of January 1, 2013.~~

~~Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.~~

The people of the State of California do enact as follows:

- 1 *SECTION 1. Section 42605 of the Education Code is amended*
- 2 *to read:*
- 3 42605. (a) (1) Unless otherwise prohibited under federal law
- 4 or otherwise specified in subdivision (e), for the 2008–09 fiscal
- 5 year to the 2012–13 fiscal year, inclusive, recipients of funds from
- 6 the items listed in paragraph (2) may use funding received, pursuant
- 7 to subdivision (b), from any of these items listed in paragraph (2)
- 8 that are contained in an annual Budget Act, for any educational
- 9 purpose:

1 (2) 6110-104-0001, 6110-105-0001, 6110-108-0001,
2 6110-122-0001, 6110-123-0001, 6110-124-0001, 6110-137-0001,
3 6110-144-0001, 6110-150-0001, 6110-151-0001, 6110-156-0001,
4 6110-181-0001, 6110-188-0001, 6110-189-0001, 6110-190-0001,
5 6110-193-0001, 6110-195-0001, 6110-198-0001, 6110-204-0001,
6 6110-208-0001, 6110-209-0001, 6110-211-0001, 6110-227-0001,
7 6110-228-0001, 6110-232-0001, 6110-240-0001, 6110-242-0001,
8 6110-243-0001, 6110-244-0001, 6110-245-0001, 6110-246-0001,
9 6110-247-0001, 6110-248-0001, 6110-260-0001, 6110-265-0001,
10 6110-266-0001, 6110-267-0001, 6110-268-0001, and
11 6360-101-0001.

12 (b) (1) For the 2009–10 fiscal year to the 2012–13 fiscal year,
13 inclusive, the Superintendent or other administering state agency,
14 as appropriate, shall apportion from the amounts provided in the
15 annual Budget Act for the items enumerated in paragraph (2) of
16 subdivision (a), an amount to recipients based on the same relative
17 proportion that the recipient received in the 2008–09 fiscal year
18 for the programs funded through the items enumerated in paragraph
19 (2) of subdivision (a).

20 (2) This section and Section 42 of Chapter 12 of the Statutes of
21 2009 do not authorize a school district that receives funding on
22 behalf of a charter school pursuant to Sections 47634.1 and 47651
23 to redirect this funding for another purpose unless otherwise
24 authorized in law or pursuant to an agreement between a charter
25 school and its chartering authority. Notwithstanding paragraph
26 (1), for the 2008–09 fiscal year to the 2012–13 fiscal year,
27 inclusive, a school district that receives funding on behalf of a
28 charter school pursuant to Sections 47634.1 and 47651 shall
29 continue to distribute the funds to those charter schools based on
30 the relative proportion that the school district distributed in the
31 2007–08 fiscal year, and shall adjust those amounts to reflect
32 changes in charter school attendance in the district. The amounts
33 allocated shall be adjusted for any greater or lesser amount
34 appropriated for the items enumerated in paragraph (2) of
35 subdivision (a). For a charter school that began operation in the
36 2008–09 fiscal year, if a school district received funding on behalf
37 of that charter school pursuant to Sections 47634.1 and 47651, the
38 school district shall continue to distribute the funds to that charter
39 school based on the relative proportion that the school district
40 distributed in the 2008–09 fiscal year and shall adjust the amount

1 of those funds to reflect changes in charter school attendance in
2 the district. The amounts allocated shall be adjusted for any greater
3 or lesser amount appropriated for the items enumerated in
4 paragraph (2) of subdivision (a).

5 (3) Notwithstanding paragraph (1), for the 2008–09 fiscal year
6 to the 2012–13 fiscal year, inclusive, the Superintendent shall
7 apportion from the amounts appropriated by Item 6110-211-0001
8 of the annual Budget Act, an amount to a charter school in
9 accordance with the per pupil methodology prescribed in
10 subdivision (c) of Section 47634.1.

11 (4) Notwithstanding paragraph (1), for the 2008–09 fiscal year
12 to the 2012–13 fiscal year, inclusive, the Superintendent shall
13 apportion from the amounts provided in the annual Budget Act,
14 an amount to a school district, charter school, and county office
15 of education based on the same relative proportion that the local
16 educational agency received in the 2007–08 fiscal year for the
17 programs funded through the following items contained in the
18 annual Budget Act: 6110-104-0001, 6110-105-0001,
19 6110-156-0001, 6110-190-0001, schedule (3) of 6110-193-0001,
20 6110-198-0001, 6110-232-0001, and schedule (2) of
21 6110-240-0001.

22 (5) For purposes of paragraph (4) ~~of this subdivision~~, if a
23 direct-funded charter school began operation in the 2008–09 fiscal
24 year, the amount that the charter school was entitled to receive
25 from the items enumerated in paragraph (4) for the 2008–09 fiscal
26 year, as certified by the Superintendent in March 2009, is deemed
27 to have been received in the 2007–08 fiscal year.

28 (6) *Notwithstanding paragraph (4), if a school district can*
29 *substantiate to the satisfaction of the department that the 2007–08*
30 *school year was a startup year for purposes of hours of*
31 *supplemental instruction provided at a school under its jurisdiction,*
32 *the apportionment that the district receives for the programs funded*
33 *through Item 6110-104-001 of Section 2.00 of the annual Budget*
34 *Act shall be based on the same relative proportion that the district*
35 *received in the 2008–09 fiscal year for those programs.*

36 (c) (1) This section does not obligate the state to refund or repay
37 reductions made pursuant to this section. A decision by a school
38 district to reduce funding pursuant to this section for a
39 state-mandated local program shall constitute a waiver of the
40 subvention of funds that the school district is otherwise entitled to

1 pursuant to Section 6 of Article XIII B of the California
2 Constitution on the amount so reduced.

3 (2) As a condition of receipt of funds, the governing board of
4 the school district or board of the county office of education, as
5 appropriate, at a regularly scheduled open public hearing shall take
6 testimony from the public, discuss, approve or disapprove the
7 proposed use of funding, and make explicit for each of the budget
8 items in paragraph (2) of subdivision (a) the purposes for which
9 the funds will be used.

10 (3) Using the Standardized Account Code Structure reporting
11 process, a local educational agency shall report expenditures of
12 funds pursuant to the authority of this section by using the
13 appropriate function codes to indicate the activities for which these
14 funds are expended. The department shall collect and provide this
15 information to the Department of Finance and the appropriate
16 policy and budget committees of the Legislature by April 15, 2010,
17 and annually thereafter on April 15 until, and including, April 15,
18 2014.

19 (d) For the 2008–09 fiscal year to the 2012–13 fiscal year,
20 inclusive, local education agencies that use the flexibility provision
21 of the section shall be deemed to be in compliance with the
22 program and funding requirements contained in statutory,
23 regulatory, and provisional language, associated with the items
24 enumerated in subdivision (a).

25 (e) Notwithstanding subdivision (d), the following requirements
26 shall continue to apply:

27 (1) For Items 6110-105-0001 and 6110-156-0001, the amount
28 authorized for flexibility shall exclude the funding provided for
29 instruction of CalWORKs eligible students pursuant to schedules
30 (2) and (3), and provisions 2 and 4.

31 (2) (A) Any instructional materials purchased by a local
32 education agency shall be the materials adopted by the state board
33 for kindergarten and grades 1 to 8, inclusive, and for grades 9 to
34 12, inclusive, the materials purchased shall be aligned with state
35 standards as defined by Section 60605, and shall also meet the
36 reporting and sufficiency requirements contained in Section 60119.

37 (B) For purposes of this section, “sufficiency” means that each
38 pupil has sufficient textbooks and instructional materials in the
39 four core areas as defined by Section 60119, and that all pupils
40 within the local education agency who are enrolled in the same

1 course shall have identical textbooks and instructional materials,
2 as specified in Section 1240.3.

3 (3) For Item 6110-195-0001, the item shall exclude moneys that
4 are required to fund awards for teachers that have previously met
5 the requirements necessary to obtain these awards, until the award
6 is paid in full.

7 (4) For Item 6110-266-0001, a county office of education shall
8 conduct at least one site visit to each of the required schoolsites
9 pursuant to Section 1240 and shall fulfill all of the duties set forth
10 in Sections 1240 and 44258.9.

11 (5) For Item 6110-198-0001, a school district or county office
12 of education that operates the child care component of the
13 Cal-SAFE program shall comply with paragraphs (5) and (6) of
14 subdivision (c) of Section 54746.

15 (f) This section does not invalidate any state law pertaining to
16 teacher credentialing requirements or the functions that require
17 credentials.

18 ~~SECTION 1. The Legislature finds and declares all of the~~
19 ~~following:~~

20 ~~(a) The National Assessment of Education Progress in 2005~~
21 ~~ranked California the seventh lowest in mathematics in grade 8~~
22 ~~and the third lowest in reading in grade 8 among all 50 states and~~
23 ~~the District of Columbia. The results for science in 2005 stated~~
24 ~~that the performance of pupils in California was the second lowest~~
25 ~~among the 44 states that participated in that survey.~~

26 ~~(b) The Governor's Advisory Committee on Education~~
27 ~~Excellence, the Secretary for Education, the President pro Tempore~~
28 ~~of the Senate, the Speaker of the Assembly, and the Superintendent~~
29 ~~of Public Instruction requested that the Getting Down to Facts~~
30 ~~Project be conducted to aid in the reform of public education in~~
31 ~~kindergarten and grades 1 to 12, inclusive, in California.~~

32 ~~(c) The Getting Down to Facts Project, using grants provided~~
33 ~~by the Bill & Melinda Gates Foundation, the William and Flora~~
34 ~~Hewlett Foundation, the James Irvine Foundation, and the Stuart~~
35 ~~Foundation, brought together an array of scholars from 32~~
36 ~~institutions with diverse expertise and policy orientations to~~
37 ~~synthesize what is known about the school governance and finance~~
38 ~~systems in California as a basis for convening the necessary public~~
39 ~~conversations to determine what should be done to improve public~~

1 ~~education in kindergarten and grades 1 to 12, inclusive, in~~
2 ~~California.~~

3 ~~(d) On March 14 and 15, 2007, the findings of the more than~~
4 ~~20 studies included in the Getting Down to Facts Project were~~
5 ~~released.~~

6 ~~(e) It is necessary to replace the outmoded, arcane, and little~~
7 ~~understood formula used for funding kindergarten and grades 1 to~~
8 ~~12, inclusive, education in California public schools.~~

9 ~~SEC. 2. Section 41055 is added to the Education Code, to read:~~

10 ~~41055. (a) It is the intent of the Legislature to do all of the~~
11 ~~following:~~

12 ~~(1) Simplify and make transparent the process through which~~
13 ~~funding is provided for each public school pupil.~~

14 ~~(2) Equalize the funding for pupils within significant parameters;~~
15 ~~including the varying costs of living throughout the state, the~~
16 ~~differences in the costs to educate pupils based on grade level, and~~
17 ~~the varying costs to educate pupils based on their individual needs.~~

18 ~~(3) Focus per-pupil funding on enabling all California pupils to~~
19 ~~reach the high academic performance standards of the state.~~

20 ~~(b) The Governor, Superintendent, and the Legislature shall~~
21 ~~each appoint three members to a nine-member commission, to be~~
22 ~~known as the Commission on Pre K-12 Funding, to complete a~~
23 ~~comprehensive study of key factors to be considered in the creation~~
24 ~~of weights within the concept of a weighted formula for funding~~
25 ~~pupil learning, with the basic assumption that more resources are~~
26 ~~needed to educate some pupils than to educate other pupils. The~~
27 ~~study shall include a set of recommendations for a weighted pupil~~
28 ~~formula based on differing pupil needs and objective and thorough~~
29 ~~research. The members of the commission shall be appointed no~~
30 ~~later than February 1, 2011.~~

31 ~~(c) The study shall be completed by the Commission on K-12~~
32 ~~Funding no later than December 31, 2011. The commission shall~~
33 ~~receive priorities, parameters, criteria, and a clear definition of the~~
34 ~~work expected. The completed study shall be submitted to the~~
35 ~~Superintendent for distribution to the Legislature no later than~~
36 ~~December 31, 2011.~~

37 ~~(d) The study shall include, but not necessarily be limited to,~~
38 ~~an examination of all of the following:~~

39 ~~(1) Weighted pupil formulas used in other states and nations.~~

40 ~~(2) Pertinent scholarly literature.~~

1 ~~(3) Data relating to current funding levels and their relationship~~
2 ~~to pupil success.~~

3 ~~(4) The ready availability of data for use in instituting new~~
4 ~~formulas.~~

5 ~~(e) The study shall include, but not necessarily be limited to,~~
6 ~~discussion of all of the following:~~

7 ~~(1) Current weighted funding levels in this state, considered in~~
8 ~~terms of categorical allowances and other supplemental programs~~
9 ~~serving specific pupil populations.~~

10 ~~(2) Appropriate funding weighting factors deemed to meet the~~
11 ~~needs of special needs pupil populations, including English~~
12 ~~language learners, special education pupils, gifted and talented~~
13 ~~pupils, and pupils from low-income households.~~

14 ~~(3) Appropriate funding, as defined to meet the educational~~
15 ~~needs of all pupils, with added weighted factors taking special~~
16 ~~needs into account.~~

17 ~~(4) Recommendations for demonstrating and ensuring~~
18 ~~accountability for all pupil achievement performance on the part~~
19 ~~of local educational agencies to a new funding process that~~
20 ~~eliminates many existing categorical programs and their~~
21 ~~compliance requirements.~~

22 ~~(5) Subsuming all previous mandate obligations without~~
23 ~~subsuming existing prior year mandate debts owed to local~~
24 ~~educational agencies.~~

25 ~~(6) Base recommendations on a rollout timeline that ensures~~
26 ~~that local educational agencies will not experience year-over-year~~
27 ~~reductions in funding when the new formula becomes effective.~~

28 ~~(f) The study shall include a proposal for the best course of~~
29 ~~action, based upon and supported by an extensive body of research,~~
30 ~~to achieve a weighted pupil funding formula.~~

31 ~~(g) The commission will have available to it, from existing funds~~
32 ~~of the State Department of Education, an amount not to exceed~~
33 ~~sixty thousand dollars (\$60,000) for the performance of its duties.~~

34 ~~(h) This section shall become inoperative on July 1, 2012, and,~~
35 ~~as of January 1, 2013, is repealed, unless a later enacted statute,~~
36 ~~that becomes operative on or before January 1, 2013, deletes or~~
37 ~~extends the dates on which it becomes inoperative and is repealed.~~